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In re application of: Mark R. Boeder

Art Unit: 1661

Appl. No.: 10/622,678

PTO Confirmation No.: 1363

Filed: July 17, 2003

Examiner: Unknown

For: Chrysanthemum Plant Named 'Nirvana  
Improved'

Atty. Docket: 10451.0039.NPUS01

### INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Listed on accompanying PTO Form 1449 are documents and information that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98. Copies of the documents are enclosed.

Enclosed is a copy of published U.S. Plant Patent Application No. US 2003/0056261 P1 entitled Chrysanthemum Plant Named 'Machismo Time.' The 'Machismo Time' variety is discussed in the Brief Summary of the Invention in the instant application.

Also enclosed is a copy of a Pot Chrysanthemum Catalog 2002 from Van Zanten North America that lists the 'Machismo Time' variety as an offering. See pages 7 and 9 (color photograph). Further enclosed are copies of Ficor catalogs for 1998 and 1999 that list the 'Machismo Time' variety under the commercial name 'Macho Time,' and Ficor catalogs for 2000 through 2002, which list the same variety under the 'Machismo Time' denomination. See, e.g., pages 4 and 9 of the 2002 Ficor catalog.

This U.S. plant patent application claims the benefit of U.S. Provisional Application No. 60/396,824, filed July 17, 2002. With regard to the 'Nirvana Improved' variety that is the subject of this application, to the Applicant's knowledge, this variety has not been the subject of an application for protection in any other country, or been sold, offered for sale, or otherwise publicly disclosed or distributed, more than one year prior to the U.S. filing date for the provisional application.

Applicant reserves the right to establish the patentability of the claimed invention over any of the information provided here, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

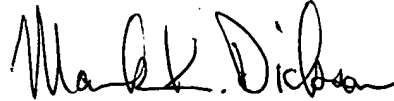
It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

It is believed that this disclosure complies with the requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98, and the Manual of Patent Examining Procedures § 609. If for some reason the Examiner considers otherwise, or requires additional information, Applicant requests that the Examiner call the undersigned so that any deficiencies can be remedied.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 08-3038 referencing docket number 10451.0039.NPUS01.

Dated: January 16, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark K. Dickson". The signature is fluid and cursive, with the first name "Mark" and last name "Dickson" clearly distinguishable.

Mark K. Dickson  
Attorney Reg. No. 32,889  
HOWREY SIMON ARNOLD & WHITE, LLP  
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**LIST OF REFERENCES CITED BY APPLICANT**  
(Use several sheets if necessary)

**PTO FORM 1449**

ATTY. DOCKET NO.

\*10451.0039.NPUS01

APPLICATION NO.

\*10/662,678

APPLICANT

\*Mark R. Boeder

FILING DATE

\*July 17, 2003

GROUP

\*1661

**U.S. PATENT DOCUMENTS**

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	1.	US 2003/0056261 P1	3-20-03	Boeder	PLT/286		
	2.						
	3.						
	4.						

**FOREIGN PATENT DOCUMENTS**

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
	5.							
	6.							
	7.							

**OTHER REFERENCES**

(Including Author, Title, Date, Pertinent Pages, Etc.)

	8.	/	Pot Chrysanthemum Catalog 2002 from Van Zanten North America listing 'Machismo Time' variety. See pages 7 and 9 (color photograph).
	9.	/	1998 Ficor Catalog listing Chrysanthemum variety 'Macho Time.' See pages 4 and 13.
	10.	/	1999 Ficor Catalog listing Chrysanthemum variety 'Macho Time.' See pages 4 and 13.
	11.	/	2000 Ficor Catalog listing Chrysanthemum variety 'Machismo Time.' See pages 4 and 13.
	12.	/	2001 Ficor Catalog listing Chrysanthemum variety 'Machismo Time.' See, pages 4 and 9.
	13.	/	2002 Ficor Catalog listing Chrysanthemum variety 'Machismo Time.' See pages 4 and 9.
	14.		
	15.		
	16.		
	17.		

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.